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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,320	11/26/2003	Latonia Matthews	59124-010201	1480

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EXAMINER

FERNSTROM, KURT

ART UNIT PAPER NUMBER

3714

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/724,320	Applicant(s) MATTHEWS, LATONIA	
	Examiner Kurt Fernstrom	Art Unit 3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2004.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-11,14-18 and 20-24 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1,4-11,14-18 and 20-24 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6, 11, 14-18, 20, 23 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrases "other tools and devices" and "other conventional tools and devices" (claim 18) are overly broad, and do not apprise one of ordinary skill as to the scope of the invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-11, 14-18 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stefany. Stefany discloses in figure 1 and in column 3, line 52 to column 4, line 32 of the specification a system and method comprising an ornament 13 which is used to modify the appearance of a fastening device, and an accompanying story 17 which relates to the ornament. Column 3, lines 53-56 in particular discloses the modification of various fastening devices including cufflinks, zippers and collar clips

using the ornament. The term "story" is very broad; thus the printed greeting is considered to be a story and read on this limitation in the claims. Column 3, lines 63-66 discloses that the greeting in most cases relates to the ornament. The recitation in claim of "fastening devices" is considered to be a multiplication of the same part. Stefany discloses a single ornament accompanying a story; providing multiple ornaments is an obvious variation on the disclosure of Stefany. Also, to the extent that "character" has any particular meaning beyond the embodiment disclosed by Stefany, such meaning is a creative expression. Providing ornaments having a specific appearance would be an aesthetic choice of design which is an obvious variation on the disclosure of Stefany. While Stefany does not disclose the use of the system to teach children how to use fastening devices; the phrase "in order to facilitate childhood learning on how to manipulate the fastening devices" is functional language which describes the intended purpose of the invention, rather than providing any additional structural limitations or concrete method steps thereto. With respect to claims 4, 10 and 14 and 15, the use of the device with zippers is disclosed by Stefan, as discussed above. With respect to claims 5, 11 and 15, the use of multiple "characters" is considered to be an obvious variation on the teachings of Stefan for the reasons discussed above. With respect to claims 6 and 11, Stefany discloses the use of cards 15 to relate the stories. With respect to claims 7, 8, 16, 17 and 20, the particular modifications to the appearance of the fastening devices and the types of stories presented are considered to be an aesthetic choice of design which is an obvious variation on the disclosure of Stefany, for the reasons discussed above. With respect to

claim 21-24, Stefany in column 3, lines 53-56 discloses the use of fastening devices which are used with clothes.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. The amendments to the claims have overcome the rejections under 35 USC 101; therefore, these rejections have been withdrawn. The phrases "other tools and devices" and "other conventional tools and devices" remain indefinite under 35 USC 112; as it is not clear what tools and devices are contemplated here.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Clewans discloses a device for modifying the appearance of a fastening device.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

Art Unit: 3712

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (703) 305-0303. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KF
October 18, 2004

KURT FERNSTROM
PRIMARY EXAMINER